

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 FORT WORTH DIVISION

4 UNITED STATES OF AMERICA,) CASE NO. 4:14-CR-023-A
5))
6 Government,) FORT WORTH, TEXAS
7 VERSUS))
8 CHRISTOPHER ROBERT WEAST,) MAY 28, 2014
9 Defendant.))
) 1:59 P.M.

10 VOLUME 3 OF 16
11 TRANSCRIPT OF MOTION TO SUBSTITUTE ATTORNEY
12 BEFORE THE HONORABLE JOHN McBRYDE
 UNITED STATES DISTRICT COURT JUDGE

13 **A P P E A R A N C E S:**

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24 Proceedings reported by mechanical stenography, transcript
25 produced by computer.

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PROCEEDINGS

May 28, 2014 - 1:59 p.m.

COURT SECURITY OFFICER: All rise.

4 Hear ye, hear ye, hear ye, the United States
5 District Court for the Northern District of Texas at Fort
6 Worth is now in session, the Honorable John McBryde presiding.

7 Let us pray. God bless the United States and this
8 Honorable Court. Amen.

9 Please be seated.

11 MR. LEWIS: Afternoon, Judge.

12 THE COURT: Okay. We're here for a hearing in
13 Number 4:14-CR-023-A. It's United States of America versus
14 Christopher Robert Weast.

15 And let's see. Ms. -- are you filling in for
16 Ms. Saleem?

17 MR. LEWIS: Yes, for today only, sir. Alex Lewis
18 for the government, Judge.

21 Come to the microphone and state your full name for
22 the record. Come up to the podium --

24 THE COURT: -- and state your full name for the
25 record.

1 *THE DEFENDANT:* My -- my name is Chris Weast.

2 *THE COURT:* What's your full name?

3 *THE DEFENDANT:* Well, that would be a legal
4 interpret- --

5 *THE COURT:* Give me your full name.

6 *THE DEFENDANT:* In the Court's opinion, my name
7 would be --

8 *THE COURT:* Okay. Take him into custody --

9 *THE DEFENDANT:* -- Christopher Robert Weast.

10 *THE COURT:* -- until he's ready to give me his full
11 name.

12 *THE DEFENDANT:* Am I being denied my right to defend
13 myself here, sir?

14 *THE COURT:* Are you willing to give me your full
15 name?

16 *THE DEFENDANT:* I just told you, it's Christopher
17 Robert Weast.

18 *THE COURT:* Okay. Mr. Weast, it will be better if
19 you'll -- you can stay up at the microphone.

20 *THE DEFENDANT:* Oh, okay. I'm sorry.

21 *THE COURT:* It will be better if you don't play
22 games with the Court because it's just not going to work well
23 if you do.

24 *THE DEFENDANT:* I assure you, Your Honor, I do not
25 wish to play games with the Court.

1 *THE COURT:* Okay. Well, let's -- let's quit doing
2 it.

3 The reason I arranged for this is the government has
4 caused a superseding indictment to be returned, and you had
5 informed the magistrate judge at an earlier proceeding that
6 you preferred to serve as your own counsel, in other words, to
7 represent yourself.

8 *THE DEFENDANT:* Yes, sir.

9 *THE COURT:* I don't know for sure the consequences
10 of the new indictment, but it may be that there are some
11 consequences that would cause you to want to reconsider the
12 issue of whether you will represent yourself, and that's one
13 of the reasons we're having this hearing, to give you an
14 opportunity to reconsider it, if you wish. You can be seated.

15 And let me ask you a question or two. Why don't you
16 come up to the microphone now.

17 *MR. LEWIS:* Yes, sir.

18 *THE COURT:* Tell me what, if any, change the
19 superseding indictment would have as far as the punishment
20 potential is concerned.

21 *MR. LEWIS:* Yes, Your Honor.

22 On the superseding indictment, Count 1 is possession
23 of child pornography. A possession of child pornography
24 conviction carries between a sentence of zero to 10 years.

25 The superseding indictment also added Count 2, which

1 is receipt of child pornography, which carries a minimum of 5
2 years in prison and up to a maximum of 20 years in prison,
3 Your Honor.

4 *THE COURT:* So, under the indictment as it now
5 exists, the defendant is potentially subject to a sentence of
6 imprisonment of 30 years?

7 *MR. LEWIS:* That is correct, sir.

8 *THE COURT:* And is there some fine associated with
9 it?

10 *MR. LEWIS:* Yes, Judge. I believe it was a \$250,000
11 fine, is the maximum fine on that for each count, so I think
12 the total would be \$500,000.

13 *THE COURT:* And then is there a --

14 Mr. Weast, are you listening to what is being said?

15 *THE DEFENDANT:* Yes, sir.

16 *THE COURT:* Okay, because it's very important. So
17 far it's been developed that you're subjecting -- you'll be
18 subject to a term of imprisonment of 30 years, if you're
19 convicted of the offenses charged by the superseding
20 indictment, and you're subjecting yourself to the potential of
21 a \$500,000 fine in addition to that term of imprisonment.

22 Is there term of supervised release associated
23 with -- with the superseding indictment?

24 *MR. LEWIS:* There is, Judge. On Count 2, receipt of
25 child pornography carries up to a term of life of supervised

1 release, a term of no less than 5 years, however. So it's a
2 minimum of 5 years up to a term of lifetime supervision of
3 life.

4 *THE COURT:* Okay. Do you understand those things,
5 Mr. Weast?

6 *THE DEFENDANT:* No, sir. If I could, I would like
7 to ask some questions so I could understand more clearly.

8 *THE COURT:* Okay. Listen closely. I noticed you're
9 reading something as he's talking, so listen closely.

10 So far he's explained that under the superseding --
11 Mr. Weast, come back up to the microphone, so I can see that
12 you're listening instead of reading.

13 So far he's explained that your -- under the
14 superseding indictment, if you were to be convicted of those
15 offenses, you would be subject to a term of imprisonment of 30
16 years; plus, you would be subject to having to pay a fine of a
17 total of \$500,000; plus, you would be subject to service
18 of -- being supervised for the rest of your life.

19 Now, do you understand those are the penalties you
20 are subjecting yourself to, if --

21 *THE DEFENDANT:* I --

22 *THE COURT:* -- you're convicted of the offenses
23 charged by Counts 1 and 2 of the superseding indictment?

24 *THE DEFENDANT:* Your Honor, am I entitled to a -- to
25 a fair hearing in this -- in this courtroom?

1 *THE COURT:* I'm simply asking if you understand
2 that.

3 *THE DEFENDANT:* I'm asking if I'm entitled to a fair
4 hearing.

5 *THE COURT:* Yes, you're entitled to a fair hearing,
6 but --

7 *THE DEFENDANT:* Okay. I --

8 *THE COURT:* -- at this time, we're going to --

9 *THE DEFENDANT:* May I ask one more question?

10 *THE COURT:* Yes. You're entitled to --

11 *THE DEFENDANT:* Am I presumed innocent of these
12 charges, sir?

13 *THE COURT:* Yes, you're presumed innocent of these
14 charges.

15 *THE DEFENDANT:* Am I --

16 *THE COURT:* Now, that's the last -- that's the last
17 interruption I want to have from you.

18 *THE DEFENDANT:* I'm not trying to interrupt, sir.
19 I'm just trying to understand.

20 *THE COURT:* You are interrupting, and I don't want
21 anymore interruptions.

22 And I'm going to ask you again: Do you
23 understand --

24 *THE DEFENDANT:* No, sir, I do not understand
25 what -- because I'm not understanding if I'm presumed innocent

1 of all of the elements of those charges.

2 THE COURT: Do you want to continue to represent
3 yourself?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay.

6 THE DEFENDANT: Do I not have the right to represent
7 myself, sir?

8 THE COURT: No, you have the right to. You have the
9 constitutional right to represent yourself. I think you would
10 be very ill-advised if you choose to do that, particularly
11 with the attitude you have.

12 THE DEFENDANT: Sir, I'm simply trying to ask some
13 questions. That's it.

14 THE COURT: Juries are not very receptive to
15 defendants who have bad attitudes, and I would suggest that
16 you give some serious thought to changing your attitude, if
17 you intend to continue to represent yourself.

18 THE DEFENDANT: Sir, I have a question. Can I have
19 a question?

20 THE COURT: I --

21 THE DEFENDANT: Is it necessary for --

22 THE COURT: Pardon me. Pardon me. Mr. Weast, I'll
23 invite you to talk when I want you to talk.

24 THE DEFENDANT: Is the judge making a judicial
25 determination that I don't have a right to a First Amendment

1 to ask questions in this courtroom?

2 THE COURT: Let me ask you another question.

3 MR. LEWIS: Yes, Your Honor.

4 THE COURT: The superseding indictment, in the
5 heading under Count 1 --

6 MR. LEWIS: Yes, Your Honor.

7 THE COURT: -- and then also in the heading under
8 Count 2 --

9 MR. LEWIS: Yes, Your Honor.

10 THE COURT: -- says it's a violation in Count 1 of
11 18 United States Code Sections 2252A(a)(5)(B) and 2252(b)(2).
12 I'm wondering if that shouldn't be, the second one,
13 2252A(b)(2)?

14 MR. LEWIS: Oh, I see what the Court is saying.

15 THE COURT: Pardon?

16 MR. LEWIS: I understand what the Court is asking.

17 THE COURT: Is it correct? Should it be a capital
18 A?

19 MR. LEWIS: Yes, I believe it should be, to mirror
20 the first statute that was proposed.

21 THE COURT: And you have the same problem on Count
22 2.

23 MR. LEWIS: Correct. Correct, Your Honor.

24 THE COURT: I don't know whether that's a defect
25 that has to be dealt with by a superseding indictment or how

1 you deal with that. I'll let you make whatever motion is
2 appropriate.

3 MR. LEWIS: We'll take care of that problem, sir.

4 Thank you.

5 THE COURT: Okay. Mr. Weast, before we go any
6 further, let me get some additional information about your
7 ability to represent yourself.

8 Have you ever represented yourself in a -- in a
9 criminal case before?

10 THE DEFENDANT: Yes. And isn't it -- isn't it the
11 Supreme Court's opinion that the right to proceed pro se, *sui
juris*, is a fundamental statutory right that is afforded the
12 highest degree of protection as -- as was stated in *Devine
versus The Indian River County School Board*?

15 THE COURT: Mr. Weast, my question was: Have you
16 ever represented yourself in a criminal case before?

17 THE DEFENDANT: And I do believe I answered this
18 question, sir.

19 THE COURT: When did you do that?

20 THE DEFENDANT: Plenty of times in state court.

21 THE COURT: And what kind of cases were they?

22 THE DEFENDANT: And is the Court going to answer my
23 question that the Supreme Court is -- are you going to
24 acknowledge that the Supreme Court has stated that the right
25 to proceed pro se, *sui juris*, is a fundamental statutory right

1 and is afforded the highest degree of protection, as they
2 stated in Devine versus Indian River County School Board?

3 And also, I'm -- if I can, the Supreme Court has
4 also stated that due process provides that the rights of a pro
5 se, *sui juris*, litigant are to be construed liberally and have
6 the less stringent standards than formal pleadings drafted by
7 lawyers. If Court can reasonably read pleadings to state
8 valid claim on which litigant could prevail, it should do so
9 despite failure to cite proper legal authority, confusion of
10 legal theories, poor syntax and sentence construction, or
11 litigant's unfamiliarity with pleading requirements.

12 This was from Spencer v. Doe in 1998, Green v.
13 Branson in 1997 --

14 *THE COURT:* I'm going to interrupt you a minute.

15 Let me ask you a question. I have some question as
16 to the competence of this defendant, even to be represented by
17 an attorney.

18 *MR. LEWIS:* Yes, Your Honor.

19 *THE COURT:* And I have some concern as to whether he
20 needs to be committed to evaluate his competence.

21 Have you given --

22 *THE DEFENDANT:* I object to this, sir, and I will
23 not consent to a -- to what you're about to insinuate.

24 *THE COURT:* Has your -- pardon me.

25 Has your office given some thought to instituting

1 some kind of proceeding along those lines?

2 *MR. LEWIS:* Judge, I have not had any conversations
3 with the attorney handling the case, however, I will be
4 speaking with her about that, as well as the other attorneys
5 that have handled parts of this case as well. We will
6 definitely take that into consideration, Your Honor.

7 *THE DEFENDANT:* And, Your Honor, I --

8 *THE COURT:* Pardon me. Don't interrupt while I'm
9 discussing something with the attorney for the government.

10 The first step would be to have him taken, where, to
11 Carswell, in all probability?

12 *MR. LEWIS:* Yes, sir.

13 *THE COURT:* And evaluated as to whether he
14 understands the charges against him, I guess would be the
15 first issue?

16 *MR. LEWIS:* Yes, sir.

17 *THE COURT:* And whether or not he can competently
18 assist his defense counsel?

19 *THE DEFENDANT:* I take exception to this --

20 *MR. LEWIS:* Yes, sir.

21 *THE DEFENDANT:* -- this tone of -- this tone of
22 questioning back and forth --

23 *MR. LEWIS:* Yes, Your Honor, and I --

24 *THE DEFENDANT:* -- between the two of you. I take
25 exception to it because I am not consenting to this. I am

1 perfectly --

2 *MR. LEWIS:* I, at this point in time, share the
3 Court's concerns about being able to conduct just the simplest
4 of hearings with this individual, and so we'll take that into
5 consideration.

6 *THE DEFENDANT:* I take exception, and I object to
7 the prosecutor's tone over here.

8 *THE COURT:* Well, let me give a deadline for the
9 government --

10 *THE DEFENDANT:* What's he insinuating?

11 *THE COURT:* -- giving some input on the issue by
12 filing some kind of motion, if appropriate.

13 *MR. LEWIS:* Yes, sir.

14 *THE COURT:* And if you haven't --

15 *THE DEFENDANT:* I want to file a motion to dismiss
16 right now because the indictment is defective.

17 *THE COURT:* Have him be seated.

18 How long do you think it would take the government
19 to decide whether some action should be taken along the lines
20 we're talking about?

21 *MR. LEWIS:* If the Court could give until the mid --
22 mid next week, that way the attorney handling the case will be
23 available once again, and that, therefore, we can have some
24 discussion -- I can have some discussions with those
25 attorneys, if that's --

1 *THE COURT:* Do you think you could have filed
2 whatever needs to be filed by, oh, say, 2:00 Wednesday?

3 *MR. LEWIS:* Yes, Your Honor, I believe so. And if
4 not, we would ask for -- I'll file an appropriate motion
5 asking for a brief continuance, if needed at that point in
6 time, but that will be the first deadline that we set.

7 *THE COURT:* Well, why don't we do it 2:00 Thursday.

8 *THE DEFENDANT:* I object to this, to this manner
9 of -- and, Your Honor, I would like this Court to take
10 judicial notice of the entire Constitution of the United
11 States, including all of the Bill of Rights, which this Court
12 is supposed to be upholding and protecting.

13 I've been threatened by the guard standing behind me
14 over here --

15 *SPECTATOR:* Yeah.

16 *THE DEFENDANT:* -- and I take exception to being
17 threatened by the guards while I'm in a hearing that I'm
18 supposed to have a right to.

19 *SPECTATOR:* Yeah.

20 *THE COURT:* You're supposed to stand up when you're
21 addressing the Court, Mr. Weast.

22 *THE DEFENDANT:* I was made to sit down, sir.

23 *THE COURT:* I'm telling you to stand up when you're
24 addressing the Court. You weren't addressing the Court when
25 you were told to sit down.

1 *THE DEFENDANT:* I -- I am asking this Court --

2 *THE COURT:* Okay. Mr. Weast, I'm raising a question
3 as to whether or not you have the mental competence to
4 even --

5 *THE DEFENDANT:* And I am asking the Court --

6 *THE COURT:* -- to represent yourself --

7 *THE DEFENDANT:* -- judicial notice --

8 *THE REPORTER:* Hold on. I can only take one at a
9 time.

10 *THE COURT:* I think that's something that needs to
11 be explored. I've tried to have a meaningful hearing on the
12 issue of whether or not you're competent to represent
13 yourself. You won't allow me to have such a hearing.

14 So far, the determination has been that you are
15 competent to represent yourself in a sense. That's what the
16 magistrate judge ruled, that you -- I don't know the exact
17 words he used, but let me find those.

18 *THE DEFENDANT:* And I would ask that this Court take
19 judicial notice of the entire Constitution of the United
20 States of America, and the Bill of Rights, and the rights that
21 I'm supposed to be afforded in this courtroom that are
22 supposed to be protected by the judge.

23 And I also would like to go ahead and request a copy
24 of the transcript of this, of this hearing, as soon as it's
25 over, or has the Court determined that I do not have a right

1 to a copy of this transcript?

2 THE COURT: The magistrate judge made a finding when
3 you appeared before him, I believe it was April 20, 2014, that
4 you knowingly and voluntarily waived your right to counsel,
5 and, therefore, he allowed you to proceed without a counsel
6 and represent yourself.

7 I thought maybe we could explore that further and
8 see if there was any issue that needs to be dealt with based
9 on the fact that the superseding indictment's been returned.

10 THE DEFENDANT: And --

11 THE COURT: Because of your disruptiveness, we
12 aren't able to have such a hearing, so we're going to
13 recess -- we'll adjourn this hearing.

14 THE DEFENDANT: May I ask you a question?

15 THE COURT: And if you would, give me something by
16 the 2:00 Thursday deadline.

17 THE DEFENDANT: Your Honor, may I ask you a
18 question?

19 THE COURT: The defendant's remanded to custody.

20 THE DEFENDANT: You never did answer my question as
21 to whether or not we were --

22 COURT SECURITY OFFICER: All rise.

23 THE DEFENDANT: -- I was presumed innocent of all
24 the elements of the charge.

25 *(End of Proceedings)*

REPORTER'S CERTIFICATE

I, Debra G. Saenz, CSR, RMR, CRR, certify that the foregoing is a true and correct transcript from the record of proceedings in the foregoing entitled matter.

I further certify that the transcript fees format
comply with those prescribed by the Court and the Judicial
Conference of the United States.

Signed this 15th day of January, 2015.

10 /s/ Debra G. Saenz

11 DEBRA G. SAENZ, CSR, RMR, CRR
12 Texas CSR No. 3158
13 Official Court Reporter
The Northern District of Texas
Fort Worth Division

15 || CSR Expires: 12/31/15

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